

IN RE BRAYDEN S.

Submitted on Briefs September 27, 2011

Decided October 27, 2011

Panel: SAUFLEY, C.J., and ALEXANDER, LEVY, SILVER, MEAD, and JABAR, JJ.

MEMORANDUM OF DECISION

The father of Brayden S. appeals from a judgment of the District Court (Bangor, *Jordan, J.*) terminating his parental rights to the child pursuant to 22 M.R.S. § 4055(1)(B)(2) (2010). Contrary to the father's contentions, the court's findings meet the statutory requirements for termination, *see In re Amanda H.*, 2007 ME 43, ¶¶ 2, 3, 917 A.2d 1120, and there is sufficient evidence in the record to support the court's findings, by clear and convincing evidence, that termination was in the child's best interest, *see In re Robert S.*, 2009 ME 18, ¶ 15, 966 A.2d 894. The court did not err, or violate the father's due process rights, when it admitted testimony concerning the foster mother's intention to allow contact between the child and his parents after termination. *See* 22 M.R.S. § 4055(2) (2010); *In re Ashley A.*, 679 A.2d 86, 89 (Me. 1996); *In re Randy Scott B.*, 511 A.2d 450, 452-54 (Me. 1986); *see also* M.R. Evid. 403; *In re Soriah B.*, 2010 ME 130, ¶ 21, 8 A.3d 1256.

The father also challenges the court's reference to prior guardian ad litem reports in its order terminating his parental rights. The court stated in the introductory summary of its termination findings that it had "reviewed the entire file with Guardian Ad Litem reports and previous orders." This statement could be read to indicate that the court considered evidence that was submitted in an earlier proceeding in the matter before a different judge. We have held, "When a different trial judge presides at a later stage of the process, that trial judge may not rely on the *evidence* presented to the prior judge, but may consider and rely on the findings

of fact and conclusions of law contained in the orders or judgments entered by the prior judge.”<sup>1</sup> *In re Scott S.*, 2001 ME 114, ¶ 12, 775 A.2d 1144.

Because the court did not identify or rely on information contained in the prior guardian ad litem reports to support its findings, however, error, if any, was harmless. *See* M.R. Civ. P. 61; *In re Kaitlyn P.*, 2011 ME 19, ¶ 11, 12 A.3d 50. The information contained in the guardian ad litem reports was also duplicated by the findings of fact and conclusions of law contained in prior orders and judgments, and by the testimony given at the termination hearing, *see In re Kaitlyn P.*, 2011 ME 19, ¶ 11, 12 A.3d 50, all of which were properly in the record before the court, *see In re Scott S.*, 2001 ME 114, ¶¶ 12, 13, 775 A.2d 1144.

The entry is:

Judgment affirmed.

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**On the briefs:**

Joseph M. Pickering, Esq., Largay Law Offices, Bangor, for appellant Corrie J.

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<sup>1</sup> Guardian ad litem reports entered in evidence pursuant to 22 M.R.S. § 4005(1)(D) (2010), may be considered at a later stage of the child protection process when the same judge has presided over the previous stages of the proceeding. *In re Scott S.*, 2001 ME 114, ¶ 12, 775 A.2d 1144. When a different judge is presiding over a later stage of the process, previous guardian ad litem reports may be considered if (1) the reports are admitted in evidence at the later proceeding, or (2) the parties agree that they may be considered.